



P/4976-35

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Jean-Marie GOUOT et al.

Date: September 16, 2009

Serial No.: 10/587,802

Group Art Unit: 4121

Filed: October 10, 2006

Examiner: Pihonak, S.

For: FUNGICIDAL COMPOSITION COMPRISING A PYRIDYLETHYLBENZAMIDE
DERIVATIVE AND A COMPOUND CAPABLE OF INHIBITING THE TRANSPORT
OF ELECTRONS OF THE RESPIRATORY CHAIN IN PHYTOPATHOGENIC
FUNGAL ORGANISMS

TERMINAL DISCLAIMER

Mail Stop Amendment
Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This terminal disclaimer is submitted under Rule 321(c) to obviate a non-statutory double-patenting rejection over a co-pending application, which is being filed in response to an office action of August 24, 2009, in reference to the above-identified patent application.

Application Number 10/588,532 is assigned to Bayer CropScience S.A., 16 Jean-Marie Leclair, F-69009 Lyon, France. Bayer CropScience S.A thus holds a 100 percent interest in both the above-identified application and Application No. 10/588,532, and disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term, defined in 35 U.S.C. §§ 154, 156, and 173 as shortened by any terminal disclaimer filed prior to the grant, of any patent or patents granted on said Application No. 10/588,532. The owner agrees that any

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Response to Office Action dated August 24, 2009

patent so granted on the instant application shall be enforceable only for and during such period that it and any patent or patents granted on said Application No. 10/588,532 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term, as defined in 35 U.S.C. §§ 145 to 156 and 173, of any patent or patents granted on said Application No. 10/588,532, as shortened by any terminal disclaimer filed prior to its patent grant, in the event that such patent(s): (1) expire(s) for failure to pay a maintenance fee, (2) is (are) held unenforceable, (3) is (are) found invalid by a court of competent jurisdiction, (4) is (are) statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §§ 1.321, (5) has (have) all claims cancelled by a re-examination certificate, (6) is (are) reissued, or (7) is (are) in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its (their) grant.

For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States

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Code and that any such willful false statement may jeopardize the validity of the application of any patent issued thereon.

The fee of \$140 for a terminal disclaimer under 37 C.F.R. § 1.20(d) was previously paid on June 1, 2009.

Respectfully submitted,



F. Gerhards

Dr. Frank Gerhards
BAYER CROPSCIENCE S.A.
Patents & Licensing Department
Senior Patent Counsel
Alfred-Nobel-Str. 50, Building 6100
D-40789 Monheim
Germany